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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,391	06/28/2001	Michael Epstein	US 010314	6445

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

TRUONG, LAN DAI T

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 12/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/894,391

Applicant(s)

EPSTEIN, MICHAEL

Examiner

Lan-Dai Thi Truong

Art Unit

2152

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 03 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: none.
- Claim(s) objected to: none.
- Claim(s) rejected: 4-10.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: please see continuation sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


BUNJOB JAPOCHONWANIT
SUPERVISORY PATENT EXAMINER

Regarding to Applicant's arguments with respect to the references do not describe a timer for measuring response times associated with the one or more responses to the one or more requests are not persuasive: (Honda discloses method for measuring response times between a client computer and a server. "Time measurement unit" which is equivalent to "timer", "display section" which is equivalent to "render", and "evaluation system" which is equivalent to "verifier": column 3, lines 35-67; column 4, lines 1-67; column 9, lines 1-67, column 10, lines 1-67)

Regarding to Applicant's arguments with respect to the references do not describe the response times are correlated to a physical proximity between the verifier and a first source of the one or more requests and between the verifier and a second source of the one or more requests are not persuasive: (Candelore discloses method for authentication location of content player; wherein a content processing device includes "a processor" which is equivalent to "verifier" used to verify the validity of the content player location based upon the "time data" which is equivalent to "response time" and "location data" which is equivalent to "physical proximity", see (Candelore: abstract; [0002]; [0047]-[0049]; [0052]-[0053])

Regarding to Applicant's arguments with respect to the Candelore-Honda-Fischer does not disclose the verifier determines the authorization based at least in part on an assessment of the response times, and wherein the assessment of the response times forms an assessment of whether the one or more responses were communicated locally to the verifier or via network connection are not persuasive. these features are rejected by combination of the Fisher and the Dillenberger as following: The Fisher discloses "validity" which is equivalent to "authorization" based upon "the expected request transmitting time" which is equivalent to "the response time." Fischer discloses a unique location certificates to establish the location of participants in a network, determine the validity of objects which are expected to be presented within certain geographic bounds and control the use of security or sensitive devices, see (column 6, lines 1-67; column 4, lines 32-67; column 5, lines 1-49; column 1, lines 49-56). While Dillenberger discloses method for monitoring, collecting response times and generating performance metric, see (abstract)

Regarding to Applicant's arguments with respect to the combination of references does not describe features of a timer, operably coupled to the verifier and the render for measuring response times associated with responses to requests for the other data items from the render are not persuasive: (Honda discloses "time measurement section" which is equivalent to "timer", "display section" which is equivalent to "render", and "evaluation system" which is equivalent to "verifier": column 3, lines 35-67; column 4, lines 1-67; column 9, lines 1-67, column 10, lines 1-67: 96,910,221)

Regarding to Applicant's arguments with respect to the combination of the references does not describe the verifier precludes the rendering based at least in part on an assessment of the response time are not persuasive: (Hershey disclosed a communication system comprising associations between purchased application programs and subscriber licenses for using the purchased application program. Hershey discloses a timer is set in the operating system of the work station to keep track of responses it is waiting for, and based on comparison between response time and the time is set by timer; If a response is not received with the time is set by timer; the process for requesting of using application programs is inhibited: column 3, lines 57-64; column 5, lines 19-41; column 6, lines 20-67)

In response to applicant's arguments that there is no suggestion to combine the references of the Serret-Avila and the Honda, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both of the references all teach verifying for rendering data, see (Honda: abstract) and (Serret-Avila: column 4, lines 49-67)

Regarding to Applicant's arguments with respect to no teaching "selecting data item from a plurality of data item in a data set" are not persuasive. Examiner notes that the features upon which applicant relies are not recited in the rejected claim(s). However, Serret-Avila discloses method for preventing access to unauthorized copies of protected content. In Serret-Avila's system, "the data signals" which is equivalent to "data set" is stored and distributed on a compact-disc, a DVD, or the like. Serret-Avila discloses "decoding system such as a portable audio or video player" which is equivalent to "renderer" includes memory for storing data signals, a disk drive for writing data signals to diskettes, CDs, DVDs. Serret-Avila also discloses the requested file/tracks is available to access/distribute/ "play" which is equivalent to "producing" if the authorization succeeds: (abstract, lines 5-11; column 6, lines 45-59; column 7, lines 25-28; column 8, lines 25-67; column 2, lines 45-50, 56-67; column 3, lines 29-46; column 4, lines 36-59; column 5, lines 1-9)

In response to applicant's arguments that there is no suggestion to combine the references of the Hershey and the Fischer, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both of the references all teach validating for accessing/ and rendering data, see (Hershey: abstract) and (Fischer: abstract)

In response to applicant's arguments that there is no suggestion to combine the references of the Serret-Avila-Honda-Hershey and the Van-Zoest, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both of the references all teach verifying for rendering data, see (Van-Zoest: abstract)

In response to applicant's arguments that there is no suggestion to combine the references of the Serret-Avila-Honda-Hershey and the Vered, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both of the references all teach the binding of verifying/validation and data rendering, see (Vered: column 4, lines 40-67; column 5, lines 1-9)

12/05/2006